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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHARYN MARIE GARRITY, RONALD LEWIS SCOTT, and
AARON MARK HELSINGER

Appeal 2008-004379
Application 09/426,442
Technology Center 2400

Decided:¹ May 29, 2009

Before JAMES D. THOMAS, LEE E. BARRETT, and STEPHEN C. SIU,
Administrative Patent Judges.

SIU, *Administrative Patent Judge.*

DECISION ON APPEAL

¹ The two month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

STATEMENT OF THE CASE

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–17. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

The invention relates to providing secure access and transactions using a certificate authentication component to verify a user's identity, a directory to store an access policy for each user, and an access control system to restrict access to users based on the access policy information associated with each user (Spec. 3, ll. 4–13).

Independent claim 1 is illustrative:

1. An access system for a computer site, comprising a certificate authentication component to verify a user's identity from a digital certificate supplied by the user,
a directory, coupled to the certificate authentication component, to maintain an account for each individual user, each account containing an access policy specifying at least one portion of the computer site to which the corresponding user is permitted access, and
an access control system, coupled to the directory, for controlling access to a computer site by permitting the user to access a portion of the computer site and restricting the user from accessing at least one other portion of the computer site, based on the access policy associated with the individual user in a directory.

References

The Examiner relies upon the following references as evidence in support of the rejections:

Davis

US 6,367,009 B1

Apr. 2, 2002
(filed Dec. 17, 1998)

Ginzboorg	US 6,240,091 B1	May 29, 2001 (filed Oct. 17, 1997)
Bertram	US 5,948,064	Sep. 7, 1999
Grimmer	US 5,774,552	Jun. 30, 1998

Rejection

The Examiner rejects claims 1, 2, and 7–14 under 35 U.S.C. § 103(a) as being unpatentable over Davis in view of Bertram, claims 4–6, 16, and 17 under 35 U.S.C. § 103(a) as being unpatentable over Davis in view of Bertram and Ginzboorg, and claims 3 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Davis in view of Bertram and Grimmer.

Appellants' Contentions

Appellants urge reversal, arguing there is no motivation to combine Davis and Bertram (App. Br. 13–14).

Examiner's Findings/Conclusions

The Examiner disagrees, averring that it would have been obvious to one of ordinary skill in the art to combine Davis and Bertram (Ans. 6).

ISSUE

Have Appellants shown that the Examiner erred in concluding that it would have been obvious to one of ordinary skill in the art to combine Davis and Bertram?

FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

1. Davis teaches how to enable “the true client’s identity to be known to the application on the end-tier server” (Abstract).
2. Davis teaches that “The manner in which the application program uses the name is application dependent, and does not form part of the present invention. As an example of the application-dependent processing, if access control is being used on the ETS as previously described, the application program will compare this name to its list (or other representation) of authorized users. If the name is authorized, then the application will process the request that is being made on behalf of the first-tier client; otherwise, the request will be rejected” (col. 13, ll. 33–42).
3. Bertram teaches “a discovery ‘policy’ to tailor the way in which a user may access and interact with the discovered information” (Abstract).
4. Bertram teaches that “authentication is a process is [*sic*] which the userid and password are provided to a user account database for validation. Upon successful validation, a positive confirmation is received for the authentication and the user processing is allowed to continue” (col. 6, ll. 1–5).

PRINCIPLES OF LAW

Obviousness

Section 103(a) forbids issuance of a patent when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.”

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 406 (2007).

“What matters is the objective reach of the claim. If the claim extends to what is obvious, it is invalid under § 103.” *Id.* at 419. In *KSR*, the Supreme Court emphasized “the need for caution in granting a patent based on the combination of elements found in the prior art,” *id.* at 415, and discussed circumstances in which a patent might be determined to be obvious. *Id.* at 415–16 (citing *Graham v. John Deere Co.*, 383 U.S. 1, 12 (1966)). The Court reaffirmed principles based on its precedent that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416. The operative question in this “functional approach” is thus “whether the improvement is more than the predictable use of prior art elements according to their established functions.” *Id.* at 415, 417.

The Federal Circuit recognizes that “[a]n obviousness determination is not the result of a rigid formula disassociated from the consideration of the facts of a case. Indeed, the common sense of those skilled in the art demonstrates why some combinations would have been obvious where others would not.” *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1161 (Fed. Cir. 2007) (citing *KSR*, 127 S. Ct. 1727, 1739 (2007)). The Federal Circuit relied in part on the fact that Leapfrog had presented no evidence that the inclusion of a reader in the combined device was “uniquely challenging or difficult for one of ordinary skill in the art” or “represented an unobvious step over the prior art.” *Id.* at 1162 (citing *KSR*, 127 S. Ct. at 1740–41).

ANALYSIS

We concur with the Examiner's finding that it would have been obvious to one of ordinary skill in the art to combine Davis and Bertram. Davis teaches how to identify who or what is trying to connect to a protected system (FF 1). Bertram teaches the use of user accounts to establish access control policies for protected systems (FF 3–4). These are complementary teachings, both being used according to their established functions to yield a predictable result. *See KSR*, 550 U.S. at 417.

Appellants have not shown that it would have been uniquely challenging or difficult for one of ordinary skill in the art to combine Davis and Bertram. *See Leapfrog Enters., Inc.*, 485 F.3d at 1162. Nor have Appellants shown that the invention represents an unobvious step over Davis and Bertram. *Id.*

Furthermore, the Examiner recognized that one of ordinary skill in the art would have been motivated to look to what was known outside of Davis to improve its “security and flexibility” (Ans. 4). Davis presented a simple access control policy example: a list of authorized users. But Davis made clear that access control policies were not part of the invention (FF 2). One of ordinary skill in the art would look to other authentication teachings, such as Bertram (FF 4), to find access control policy teachings more robust than the example described in Davis.

For at least these reasons, we conclude that Appellants have not sustained the requisite burden on appeal in providing arguments or evidence persuasive of error in the Examiner's rejection of claims 1, 2, and 7–14. Appellants make no new arguments in support of claims 3–6 and 15–17,

thus we further conclude that Appellants have not shown error in the Examiner's rejection of these claims.

CONCLUSIONS OF LAW

Based on the findings of facts and analysis above, we conclude that Appellants have failed to demonstrate that the Examiner erred in finding that it would have been obvious to one of ordinary skill in the art to combine Davis and Bertram.

DECISION

We affirm the Examiner's decision rejecting claims 1-17.

AFFIRMED

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VERIZON LEGAL DEPARTMENT
PATENT MANAGEMENT GROUP
1320 N. COURTHOUSE ROAD
9TH FLOOR
ARLINGTON, VA 22201-2525